Shephali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
MISCELLANEOUS PETITION NO. 18 OF 1992
IN
TESTAMENTARY PETITION NO. 597 OF 1990

Dolette Maria Louis …Petitioner
Versus
Doric Peter Desouza …Respondent

Mr. A. Thakkar, *a/w Mr. Nimesh Bhatt, i/b Thakkar & Co., for the Petitioner.*
Ms. Vaishali Chaudhary, *for the Respondent.*

CORAM: G.S. PATEL, J
DATED: 5th December 2014

PC:-

1. Testamentary Petition No. 597 of 1990 was originally filed by one Doric Peter DeSouza seeking Letters of Administration to the estate of one J. C. DeSouza. Letters of Administration were granted on 4th July 1992. Thereafter, Miscellaneous Petition No. 18 of 1992 was filed by one Dolette Louis seeking that the Letters of Administration granted to Doric Peter Desouza in Testamentary Petition No. 597 of 1990 be revoked.

2. It appears, and there is no dispute about this, that the original Testamentary Petitioner Doric Peter DeSouza (the Respondent in the Miscellaneous Petition for revocation) passed away on 22nd October 2009. His right as an Administrator was a personal right. It accrued to him by virtue of his appointment as an Administrator by this Court. That right as an Administrator does not pass by survivorship or inheritance. Letters of Administration granted to Doric Peter DeSouza were personal to him and, on his passing, have become inoperative and otiose within the meaning of Section 263(d) of the Indian Succession Act, 1925.

3. It seems that the 2nd Respondent to the Miscellaneous Petition No. 18 of 2002 has now filed a fresh Petition No. 868 of 2002 seeking the Letters of Administration to the estate of Mr. J. C. DeSouza.

4. In this view of the matter, Letters of Administration originally granted to Doric Peter DeSouza on 4th July 1992 in Testamentary Petition No. 597 of 1990 have become, in the words of statute, "useless and inoperative through circumstances". The present Miscellaneous Petition for revocation does not survive. It is allowed to be withdrawn with no order as to costs.

5. The original documents tendered in evidence in the Miscellaneous Petition No. 18 of 2002 shall be returned to the Petitioner upon the Petitioner furnishing photocopies duly authenticated by her Advocates.

6. Miscellaneous Petition is disposed of in these terms.

7. All concerned to act on an authenticated copy of this order.

(G. S. PATEL, J.)